LEO DROZDOFF, *Administrator*

(775) 687-4670
Administration
Facsimile 687-5856

Water Quality Planning
Water Pollution Control
Facsimile 687-4684

Mining Regulation & Reclamation
Facsimile 684-5259

State of Nevada
KENNY C. GUINN
Governor

ALLEN BIAGGI, *Director*

Air Pollution Control
Air Quality Planning
Facsimile 687-6396

Waste Management
Federal Facilities

Corrective Actions
Facsimile 687-8335

NDEP.nv.gov

DEPARTMENT OF CONSERVATION AND NATURAL RESOURCES
DIVISION OF ENVIRONMENTAL PROTECTION
333 W. Nye Lane, Room 138
Carson City, Nevada 89706

January 13, 2005

NOTICE OF DECISION
WATER POLLUTION CONTROL PERMIT
NUMBER NEV0094102

Cortez Joint Venture
Gold Acres Heap Leach Project

The Nevada Division of Environmental Protection has decided to issue renewal Water Pollution Control Permit NEV0094102 to Cortez Joint Venture. This permit authorizes the construction, operation, and closure of approved mining facilities in Lander County. The Division has been provided with sufficient information, in accordance with Nevada Administrative Code (NAC) 445A.350 through NAC 445A.447, to assure the Division that the groundwater quality will not be degraded by this operation, and that public safety and health will be protected.

The renewal permit will become effective 28 January 2005. The final determination of the Administrator may be appealed to the State Environmental Commission pursuant to Nevada Revised Statute (NRS) 445A.605 and NAC 445A.407. All requests for appeals must be filed by 5:00 PM, 24 January 2005, on Form 3, with the State Environmental Commission, 333 West Nye Lane, Capitol Complex, Carson City, Nevada 89706-0851.

For more information, contact Miles Shaw at (775) 687-9409, toll free in Nevada at (800) 992-0900, extension 4670, or visit the Division website at www.ndep.nv.gov/bmrr/bmrr01.htm.

During the public comment period, comments on the proposed renewal Water Pollution Control Permit NEV0094102 were received 07 January 2005, via e-mail, in a letter

dated 06 January 2005, from Christie Whiteside of Great Basin Mine Watch. NDEP responses to the quoted comments follow:

(Note: Great Basin Mine Watch (GBMW) comments are in quotation marks and NDEP responses are in italics.)

GBMW Comment #1: "The Fact Sheet states that active leaching continues on some portions of the pad. How long is active leaching planned?"

NDEP Response: *Based on Section IX of the renewal application, the expected lifetime of activity is one to five years. NDEP considers this an estimate of the remaining life of the operations at the permitted facility.*

GBMW Comment #2: "The Fact Sheet also states that the design life of the facility is less than five years. Is there a tentative permanent closure plan for the heap?"

NDEP Response: *A Tentative Permanent Closure Plan (TPCP) was submitted with the original permit application in 1993. This TPCP is referenced in the renewal application materials and remains valid. It should be noted that the renewal application also contains the statement by the Permittee that "A final plan for permanent closure will be submitted at least 2 years prior to the anticipated closure of any process component". This proposal is in accordance with the permit and Nevada Administrative Code 445A.447.*

GBMW Comment #3: "The Fact Sheet states that the Gold Acres Heap Leach Research Project is underway to develop new closure approaches for use at Pipeline and other projects, and that research aspects include long-term draindown chemistry, solution disposal alternatives, cover design, surface configuration, geochemistry of spend solutions and materials over time, ecotoxicology and effectiveness of various rinsing scenarios. Please elaborate upon what methods are being tested, specifically with reference to what solution disposal and rinsing scenarios are being practiced at the site, and whether or not any of the activities have the potential to degrade waters of the state. If the ongoing research project activities increase the potential for the facility to degrade waters of the state, a Minor Modification of the permit should be required under NAC 445A.416."

NDEP Response: *Final closure has not been initiated. The research work is still at an early stage and the test work involves studies by the Permittee, consultants contracted by the Permittee, and researchers from the University of Nevada – Reno or other academic institutions. The research is on going, is performed either in laboratory settings or within the permitted heap leach pad footprint and containment. No actual solution disposal or rinsing activities are taking place at the site. The research activities are concurrent with active leaching of the pad and do not have the potential to degrade waters of the state. This research should provide information beneficial to preparation of an appropriate Final Permanent Closure Plan when required.*

GBMW Comment #4: "With regards to ore stockpiles at the site, there is no information given on whether or not any of the stockpiled ore has been determined to have acid

This notice is for electronic distribution

generating potential. The NDEP should require Cortez to take measures to ensure that sulfidic ore and that with the potential to degrade waters of the state, as demonstrated through kinetic tests does not have the potential to degrade waters of the state in violation of 445A.424."

NDEP Response: *In response to an NDEP request, the Permittee provided AGP and ANP data for the four (4) roast ore stockpiles located at the permitted facility as an attachment to a letter dated 18 August 2004. The data demonstrate that the material in these stockpiles is not acid generating and has strong buffering potential. In addition, quarterly characterization of any roast ore stockpile material and waste rock added during the quarter was included as a new monitoring requirement in the NoPA draft permit provided for public review and will remain in the issued permit.*

GBMW Comment #5: "The permit states that if the kinetic test results indicate that acid generation conditions exist, that Cortez will then submit plans in writing for the methods of providing containment of the materials and the anticipated impact the acid generation potential may have on final stabilization of all affected components. The NDEP should require Cortez to submit these plans as a schedule of compliance for the current renewal, regardless of whether or not current mining is conducted, and before the need arises through kinetic test results indicate the potential for acid generation. All ore with acid generating potential must be handled so as to prevent it from degrading waters of the state, and these plans should be proactively developed and required by the NDEP as a condition of the permit."

NDEP Response: *NDEP is in general agreement with the comment. The permit requirement that is referenced addresses situations in which the potential to generate acid is identified in a sample after a permit has been issued and during the course of required routine monitoring. If material characterized in advance is found to be potentially acid generating (PAG), a waste rock management plan to address the management of that material would be required prior to issuing the permit or possibly as a Schedule of Compliance (SOC) item. If the PAG material is identified at a later time, an SOC item or permit modification could be required, depending on how best to address the circumstances. As explained in the response to GBMW Comment #4, the existing waste and stockpiled material have been shown not to be PAG. However, in addition to the required waste rock and ore monitoring, SOC item I.B.2 of the NoPA draft permit requires submission of an updated waste rock management plan if mining resumes. This SOC item will remain in the final permit.*

GBMW Comment #6: "A diagram of stockpile locations is included in a letter dated April 14th, 2004, Re: Annual Report 2003-Gold Acres Water Pollution control Permit NEV94102 from Cortez, to Miles Shaw at the NDEP. The diagram shows several piles, in particularly, one titled marginal roast stockpile and roast high sulfur stockpile."

NDEP Response: *See response to GBMW Comment #4.*

GBMW Comment #7: "Please clarify, under Monitoring Requirements D.1. the meaning of the statement that the water supply wells DB-15, DB-16, and DB-17 will be sampled quarterly for each source in use. The current application did not contain a diagram

This notice is for electronic distribution

showing the locations of the water supply wells. Is it possible that these wells can be used for monitoring wells now that the original wells are dry due to the dewatering at the Pipeline Mine?"

NDEP Response: *The identified monitoring requirement, I.D.1, applies to any of the identified water supply wells, which are Pipeline Project dewatering wells, used as a source of make-up water for the Gold Acres Project during a quarter. Due to the nature of dewatering activities for the Pipeline Mine, not all wells may be available as a source of make-up water during a quarter. Therefore, water quality reporting will only be required for those wells used during the quarter. Due to the volume of production from these water supply (dewatering) wells in general, and the physical location and depth of these wells specifically, they are not appropriate for groundwater monitoring.*

GBMW Comment #8: "Past monitoring reports, including those for the years 2002-2004, indicated that antimony is elevated in excess of the MCLs for Deep Bedrock wells 8 and 9. Does historical data indicate that this is a background condition, or that it could be due it leaching from stockpiles or the heap leach pad into the aquifer?"

NDEP Response: *Historical and baseline bedrock water quality data do indicate naturally occurring, slightly elevated levels of antimony in the project area. A review of reports for all wells from 1995 to the present does not indicate any antimony values that have exceeded the Bureau's Profile I water quality standard of 0.146 mg/L. It is also unlikely that the slightly elevated antimony values are indicative of a leaking process component since the reports lack elevated values for other anomalous process solution "signature" elements.*

GBMW Comment #9: "Additionally, for the last year that monitoring wells GA-A, GA-B, and GA-C were sampled, monitoring well GA-C showed levels of manganese in excess of the MCLs. If manganese or other constituents are not related to background levels and are present in the soil as a result of leakage from the heap leach pad or fluid management system, there is the potential for the degradation of waters of the state as groundwater levels recover when mining ceases at the Pipeline project."

NDEP Response: *The cited wells have completion depths between 393 and 477 feet and are screened in the bottom 20 to 35 feet of each borehole. GA-C was sampled from 1994 until 1997, when it went dry. During this period of monitoring, water quality analyses for manganese were consistently elevated above the Bureau's Profile I water quality standard of 0.1 mg/L. Based on data for this and other wells in the area, the elevated manganese values appear to be natural background and are believed to be associated with the reducing chemistry of the deeper bedrock groundwater. This chemistry keeps elements such as manganese and iron in solution rather than allowing precipitation to occur as is noted in the more oxidizing water found in shallow alluvial wells in the area. These facts and the lack of other process solution "signature" constituents in the analyses do not suggest process component leakage as a source of the manganese. In addition, records do not indicate any history of chronic or continuing process component leakage. Therefore, future groundwater degradation is not anticipated when the groundwater levels recover following dewatering activities.*

This notice is for electronic distribution